

REMARKS

The present amendment is in response to the Office Action dated October 28, 2003. Figure 1 has been amended in accordance with the request from the Examiner to more clearly label the functional block diagram. Figure 2a has also been amended to more clearly correspond to the specification. Formal drawings will be submitted in due course. Claims 1-35 are now present in this case. Claims 16 and 19 are amended. New claims 32-35 are added.

The applicants wish to express their appreciation to the Examiner for his indication of some typographical errors within the specification. Those typographical errors have been corrected.

The Office Action objected to claim 19 due to an informality. Claim 19 has been amended to overcome this objection. Claims 17 and 18 were rejected under 35 U.S.C. § 112 as lacking insufficient antecedent basis. Claim 16, from which these claims depend, has been amended to provide the appropriate antecedent basis. Accordingly, the applicants request that the rejection of claim 17 and 18 under 35 U.S.C. § 112 be withdrawn.

Claims 1-7, 9 and 11-31 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent Publication No. 2002/0090942 to Karabinis et al. In addition, claims 8 and 10 are rejected under 35 U.S.C. § 103(a) as unpatentable over the same reference. In a telephone conference on November 18, 2003, the Examiner clarified that the rejection under 35 U.S.C. § 103 refers to two different embodiments in Karabinis.

For the reasons discussed below, the applicants kindly request that the Examiner withdraw the rejection of all claims over Karabinis. It should be noted that the reference cited in the Office Action was filed on December 4, 2001 while the present application was filed on April 16, 2001 and enjoys a priority date of February 12, 2001.

Accordingly, the published patent application itself is not prior art and cannot be used as the basis for rejection.

The applicants note that the published application claims priority from provisional application No. 60/250,461. However, a review of that document reveals that many of the embodiments discussed in the cited reference are not, in fact, disclosed in the provisional application. Thus, many of the embodiments in the cited reference were added after the priority date of provisional application 60/250,461 and thus constitutes new matter. Clearly, only subject matter that is disclosed in the original application can be used as a basis for rejecting the claims in the present case.

The applicants also note that the cited reference claims priority as a continuation-in-part of application No. 09/918,709, which has a filing date of August 1, 2001. As discussed above, the present application has a filing date of April 16, 2001 and a priority date extending back to February 12, 2001. Thus, U.S. Patent Application No. 09/918,709 does not qualify as prior art.

Many of the claim rejections in the current Office Action are based on Figures 6a-6b of the cited reference. However, these figures are not in the original provisional application (U.S. Patent Application No. 60/250,461) nor in the other document from which priority is claimed (U.S. Patent Application No. 09/918,709). Accordingly, all claims rejected on the basis of these figures are believed allowable.

The applicants kindly request that the Examiner withdraw all rejections based on the cited reference. If rejections are to be made, they must be made on the basis of the original subject matter of the provisional application and not on the basis of new matter added after the filing date of the present invention.

New claims 32-35 have been introduced. These claims are fully supported by the original specification and are also believed allowable.

In view of the above amendments and remarks, reconsideration of the subject application and its allowance are kindly requested. If questions remain regarding the present application, the Examiner is invited to contact the undersigned at (206) 628-7640.

Respectfully submitted,  
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